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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,987	03/24/2004	David A. Orbits	40062.91USC1	6801

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Attention of Joshua W. Korver
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EXAMINER

ABEL JALIL, NEVEEN

ART UNIT	PAPER NUMBER
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2165

MAIL DATE	DELIVERY MODE
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02/29/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/808,987

Applicant(s)

ORBITS ET AL.

Examiner

Neveen Abel-Jalil

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6, 18-23 and 25-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 18-23 and 25-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1-October -2007 has been entered.
2. The amendment filed on 1-October -2007 has been received and entered. Claims 1-6, 18-23, and 25-31 are pending.
3. Applicant's amendment has overcome the previous rejection under 35 USC 112, second.

Claim Objections

4. Claim 21 is objected to because of the following informalities:

Claim 21 recites "wherein the manifest file includes an expiration" which is an incomplete sentence. There must be an adjective missing describing the "expiration".

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1 and 2 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 2 recitation of "identifying whether each resource exists at the second member includes comparing information in the manifest file with information stored at the second member, the information stored at the second member identifying a plurality of resources stored at the second member" appears to contradict the newly added claimed recitation of "identifying whether each resource identified in the manifest file exists at the second member by comparing each resource identified in the manifest file to a database that identifies resources of the second member" in claim 1, lines 7-10. Clarification and correction is respectfully requested.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-6, 18-23, and 25-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farber et al. (U.S. Patent No. 5,978,791) in view of Carl Staelin, Hewlett-Packard Laboratories. MKPKG. A Software Packaging Tool. USENIX. Dec. 6-11, 1998 (from hereon in Staelin).

As to claim 1, Farber et al. discloses a computer-implemented method of replicating data using a manifest file comprising:

the manifest file including an identifier of each of a plurality of resources of an application that exists at the first member (See Farber et al. column 3, lines 36-39, and see column 3, lines 51-57, and see column 8, lines 19-55, wherein the combined listings of table are equivalent to an install library, and further in turn equivalent to the teachings of use of existing manifest file);

causing the manifest file to be reproduced at a second member (See Farber et al. column 25, lines 26-45, wherein True File name is used in the replication);

in response to the manifest file being reproduced at the second member, identifying whether each resource identified in the manifest file exists at the second member by comparing each resource identified in the manifest file to a database that identifies resources of the second member (See Farber et al. column 15, lines 6-45);

when each resource identified in the manifest file does not exist at the second member, preventing the application identified in the manifest file from being updated to a system registry until each resource exists at the second member (See Farber et al. column 16, lines 39-67, and see Farber et al. column 17, lines 1-9, wherein “database” reads on “structure” including True File Registry, wherein once appended to register, it goes out and locate remote files, and wherein “resource” reads on “files”); and

when each resource identified in the manifest file does exist at the second member, updating the application to the system registry and executing the application identified in the

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manifest file (See Farber et al. column , wherein once all files are created and stored in the True File Registry, it is inherent that the application is to be executed or upgraded).

Farber et al. teaches the working of the claimed invention but does not explicitly state the creating a manifest file at a first member. Instead, Farber et al. teaches the use of an existing manifest file (or its equivalent) in column 8, lines 19-55, wherein the combined listings of table are equivalent to an install library, and further in turn equivalent to the teachings of use of existing manifest file.

Staelin teaches creating a manifest file at a first member (See Staelin pages 245-246, wherein "creating a manifest file " is explicitly taught).

It would be obvious to one having ordinary skill in the art at the time the invention was made to modify Farber et al.'s invention with Staelin's invention to include creating a manifest file at a first member because it provides for packaged deliver of all needed files in the file set for installation/upgrade thus providing an efficient way of tracking components (See Staelin page 243, introduction).

As to claim 2, Farber et al. as modified discloses wherein identifying whether each resource exists at the second member includes comparing information in the manifest file with information stored at the second member, the information stored at the second member identifying a plurality of resources stored at the second member (See Farber et al. column 16, lines 39-67, and see Staelin page 251, paragraph 8).

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As to claim 3, Farber et al. as modified discloses wherein the identifier of each resource includes a version identifier associated with the resource (See Farber et al. column 29, lines 35-41).

As to claim 4, Farber et al. as modified discloses wherein identifying whether each resource exists at the second member includes comparing the version identifier of the resource with another version identifier associated with another copy of the resource stored at the second member (See Farber et al. column 42, lines 1-7, and see column 38, lines 5-11, and see Staelin page 250, paragraph 9).

As to claim 5, Farber et al. as modified discloses comprising when each resource does not exist at the second member, awaiting receipt of each resource at the second member and, in response to receiving each resource at the second member, executing the application (See corresponding rejection in claim 1 above).

As to claim 6, Farber et al. as modified discloses comprising when each resource does not exist at the second member, awaiting receipt of every resource identified in the manifest file, and in response to a final resource identified in the manifest file being received at the second member, executing the application (See corresponding rejection in claim 1 above, wherein “sequential execution is inherent” in software installation, all parts must be present in order to run the application).

As to claim 18, Farber et al. discloses a computer-readable storage medium having computer executable instructions that facilitates a replication of data using a manifest file, comprising:

receiving a notice that a resource in a group of resources is being modified, the group of resources being interrelated, wherein a proper functioning of the group of resources is dependent on a similar version of each resource in the group of resources coexisting (See column 8, lines 30-34, and see column 21, lines 1-20, and see column 38, lines 5-11, wherein version control and file dependency tracking are taught);

in response to the notice, issuing an instruction to create a manifest file (See corresponding rejection in claim 1 above under the combination of Farber et al. and Staelin);

adding to the manifest file, an identifier for each resource in the group of resources (See corresponding rejection in claim 1 above);

replicating the manifest file on a replication partner (See corresponding rejection in claim 1 above);

comparing the replicated manifest file to resources of the replication partner by comparing the identifier for each resource in the manifest file to a database that identifies resources of the replication partner (See corresponding rejection in claim 1 above, and see Farber et al. column 9, lines 36-40);

delaying execution of the group of resources when the replicated manifest file does not match the resources of the replication partner, wherein delaying execution of the group of resources includes delaying a system registry update (See column 15, lines 14-20, and see column 25, lines 50-67, and see column 38, lines 5-11, wherein it is inherent if resource are

locked or queued then their execution is delayed and they will not be added to the system's registry); and

updating a system registry and executing the group of resources when the replicated manifest file matches the resources of the replication partner (See corresponding rejection in claim 1 above).

For motivation statement, see rejection for claim 1 above.

As to claim 19, Farber et al. as modified discloses wherein adding the identifier for each resource to the manifest file further comprises adding to the manifest file a globally-unique identifier for each resource (See Farber et al. column 35, lines 38-45).

As to claim 20, Farber et al. as modified discloses wherein adding the identifier for each resource to the manifest file further comprises adding to the manifest file a version identifier for each resource (See Farber et al. column 35, lines 29-25).

As to claim 21, Farber et al. as modified discloses wherein the manifest file includes an expiration (See Farber et al. column 7, lines 10, wherein the claim construction appears to be incomplete, its unclear what the "expiration" is referencing).

As to claim 22, Farber et al. as modified discloses wherein delaying execution of the group of resources includes delaying execution of an installation file (See Farber et al. column 8, lines 1-9, and see Staelin page 249, paragraph 1, and see Staelin page 251, paragraph 8, wherein

it is inherent that unless all resources are received and that no write locks are administered, then execution is delayed).

As to claim 23, Farber et al. as modified discloses wherein delaying execution of the group of resources includes delaying execution of an installation script (See Farber et al. column 8, lines 1-9, and see Staelin page 249, paragraph 1, and see Staelin page 251, paragraph 8, wherein it is inherent that temporary staging area is where a delayed execution can be queued).

As to claim 25, Farber et al. discloses a computer system that facilitates the replication of data using a manifest file, comprising:

a first replication partner that identifies each resource of a resource group (See corresponding rejection in claim 1 above);

a second replication partner (See corresponding rejection in claim 1 above) configured to:
replicate the manifest file of the first replication partner (See corresponding rejection in claim 1 above);

compare each resource of the resource group to resources of the second replication partner (See corresponding rejection in claim 1 above);

determine when the resources of the second replication partner includes each resource of the resource group (See corresponding rejection in claim 1 above);

lock access to resources of the second replication partner when the resources of the second replication partner do not include each resource of the resource group (See column 8, lines 1-10, and see column 18, lines 22-29, and column 25, lines 47-56); and

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execute the resource group when the resources of the second replication partner include each resource of the resource group (See corresponding rejection in claim 1 above).

Farber et al. does not teach configured to create a manifest file. Instead Farber et al. teaches the use of packaged installation file in column 8, lines 20-54, wherein local directory extension table and all related structures are equivalent to installation libraries.

For motivation statement, see rejection for claim 1 above.

As to claim 26, Farber et al. as modified discloses wherein the first replication partner is configured to generate a change order that indicates modifications to the resource group (See Farber et al. column 29, lines 35-49, also see Farber et al. column 45, lines 20-36, wherein versions and log sequences are inherent change order indicators).

As to claim 27, Farber et al. as modified discloses wherein the second replication partner is configured to replicate the manifest file of the first replication partner by fetching the manifest file (See Farber et al. column 45, lines 15-17).

As to claim 28, Farber et al. as modified discloses wherein the second replication partner is further configured to retire a change notification and store the change notification in an outbound log (See Farber et al. column 32, lines 1-16, in view of Applicant's specification paragraph 0033, "Retiring the change order involves marking the change order as handled and storing the change order in an outbound log" appears to be essential subject matter missing from

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the claim, wherein it is inherent that log transactions are sequential and thus once updated, old ones are retired).

As to claim 29, Farber et al. as modified discloses the second replication partner is further configured to retire a change notification and disseminate the change notification to other replication partners (See Farber et al. column 45, lines 20-36, wherein “propagation” of versions and changes are inherent in a networked replication system, and wherein it is inherent that log transactions are sequential and thus once updated, old ones are retired).

As to claim 30, Farber et al. as modified discloses wherein the manifest file includes an execution order (See Farber et al. column 8, lines 27-43, and Farber et al. column 15, lines 14-20, and see Staelin page 250, paragraph 7, and see Staelin page 244, paragraph 6, wherein it is inherent in software installation that a script includes the sequence of execution, and wherein tracking dependency in registry includes the order of execution of files).

As to claim 31, Farber et al. as modified discloses wherein the manifest file includes a security token (See Farber et al. column 13, lines 10-14, and see Farber et al. column 9, lines 33-35, license).

Response to Arguments

9. Applicant's arguments with respect to claims 1-6, 18-23, and 25-31 have been considered but are moot in view of the new ground(s) of rejection.


Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. For complete list of relevant art, see PTO-form 892.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Neveen Abel-Jalil whose telephone number is 571-272-4074. The examiner can normally be reached on 8:30AM-5:30PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christian Chace can be reached on 571-272-4190. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Neeven Abel-Jalil
Primary Examiner
February 26, 2008